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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,133	09/24/2003	Omayma El-Sayed Moharram	OMCS-001-US	2018
68108 7590 08/29/2008 OMAYMA E. MOHARRAM RR 1 STN MAIN 225 SPRUCE CRESCENT CARLETON PLACE, ON K7C-3P1 CANADA				
EXAMINER ANTONIENKO, DEBRA L				
ART UNIT 3689		PAPER NUMBER		
MAIL DATE 08/29/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/668,133

Applicant(s)

MOHARRAM, OMAIMA EL-SAYED

Examiner

DEBRA ANTONIENKO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/29/2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a Final Office Action in response to communications received April 28, 2008, wherein:

Claims 1-38 have been amended; and therefore,

Claims 1-38 are pending.

Priority

2. A claim for priority is not granted. The original Oath has the foreign priority section blank. The examiner asserts that foreign priority has not been properly claimed. Receipt is acknowledged of a certified copy of the Canadian application 2,440,173. If this copy is being filed to obtain the benefits of the foreign filing date under 35 U.S.C. 119(a)-(d), applicant should also file a claim for such priority as required by 35 U.S.C. 119(b). If the application being examined is an original application filed under 35 U.S.C. 111(a) (other than a design application) on or after November 29, 2000, the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. See 37 CFR 1.55(a)(1)(i). If the application being examined has entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and Regulations of the PCT. See 37 CFR 1.55(a)(1)(ii). Any claim for priority under 35 U.S.C. 119(a)-(d) or (f) or 365(a) or (b) not presented within the time period set forth in 37 CFR 1.55(a)(1) is considered to have been waived. If a claim for foreign priority is presented after the time period set forth in 37 CFR 1.55(a)(1), the claim may be

accepted if the claim properly identifies the prior foreign application and is accompanied by a grantable petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55(c).

Response to Amendments

3. Applicant's amendments to the drawings are sufficient to overcome the objections set forth in the previous Office Action.
4. The substitute specification filed April 29, 2008 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because new matter has been added. Paragraphs [0023]-[0029] introduce a computer-readable medium.
5. Applicant's amendments to Claims 5 and 35 are sufficient to overcome the 35 U.S.C. 112, second paragraph rejection set forth in the previous Office Action.
6. The 35 U.S.C. 101 rejections have not been overcome. Amended Claim 1 refers to an apparatus, however, the original specification refers to the tool as being software ([0037], "The embodiments of the present invention provide improved software tools and methods..."). Claims 20 and 31 have been amended in the preamble. The preamble does not change the status of the claim, adding language to the preamble does not give patentable weight. The dependent claims are likewise rejected. Also, see discussion below.

Claim Objections

7. The amendment filed April 29, 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Claims 4, 27, and 32 address "the CAPEX as

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percentage of the revenue;...the D/A as percentage of the revenue; the SG&A as percentage of the revenue" which are not mentioned in the disclosure.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. With respect to claims 1, 20, and 31, the claim language does not include the required tie or transformation and thus is directed to nonstatutory subject matter. The dependent claims are likewise rejected.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 15-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ngi et al., U.S. Patent Application Publication Number 2003/015765 A1 (hereinafter referred to as Ngi) in view of EURESCOM Project P901-PF Extended investment analysis of telecommunication operator strategies (hereinafter referred to as EURESCOM):

Deliverable 1: Investment analysis framework definition and requirements specification (hereinafter referred to as D1)

Deliverable 2: Investment Analysis Modeling (hereinafter referred to as D2).

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Regarding Claims 1, 20, and 31 Ngi teaches a tool, computer readable medium, and computer implemented method, respectively, comprising: (a) means for inputting data and options for plurality of network architectures and management processes by an analyst ([0015], [0031]-[0033], [0097]); (b) means for engineering the plurality of network architectures based on the data and options of (a) ([0055]); (g) means for determining, based on the costs of the plurality of network architectures and the management processes, business parameters for the business solutions ([0015], [0031]-[0033], [0097]); and (h) means for storing or displaying the business parameters for the business solutions for the telecommunications network ([0015]).

Ngi does not explicitly disclose items (c)-(f), however, EURESCOM does disclose (c) means for determining suppliers' equipment costs for said plurality of network architectures (D1, Volume 2: page 49, paragraph 5; page 50, paragraph 5; page 86, paragraph 7); (e) means for determining

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suppliers' management processes costs for the network management processes and the service and customer management processes (D2, Volume 1: page 11, Table 1); (f) means for validating and calibrating the data and options and the costs for the plurality of network architectures and the management processes (D1, Volume 2: page 28, paragraph 1; page 5, paragraph 1; D2, Volume 2: pages 30-31, Section 3.2.2; pages 34-35, Section 3.4). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi's invention to include all costs in order to enable a comprehensive business decision.

EURESCOM further discloses (d) means for engineering the management processes based on the data and options of (a), wherein the management processes comprising network management processes and service and customer management processes for managing said plurality of network architectures (D2, Volume 1: page 11, Table 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi's invention to include the management processes of both the network and the servicing customers in order to enable a comprehensive business decision.

Regarding Claims 2 and 21, EURESCOM further discloses wherein the means (a) comprises means for inputting, receiving traffic data; customer data; and financial and labour data (D1, Volume 2: page 10, paragraph 4; page 13, paragraph 3; page 14, paragraph 1; page 77, paragraph 1 and Figure 23). It would have been obvious to include traffic, customer, and financial and labor data to allow for a thorough evaluation of a communications network.

Regarding Claims 3 and 22, Ngi further teaches wherein the means (a) further comprising: means for inputting, receiving technology options comprising one or more of the following

technology: time division multiplexing (TDM), asynchronous transfer mode (ATM), frame relay (FR), Internet protocol (IP), virtual private network (VPN), multi protocol label switching (MPLS), and optical Ethernet including fiber, synchronous optical network (SONET), resilience packet ring (RPR), and dense wavelength division multiplexing (DWDM) for a network architecture for a business solution ([0055]); and EURESCOM further discloses means for inputting management processes options for the network management processes and the service and customer management processes for managing the network architecture for the business solution (D2, Volume 1: page 11, Table 1). It would have been obvious to include the management processes of both the network and the servicing customers in order to enable a comprehensive business decision.

Regarding Claims 4, 27, and 32, EURESCOM further discloses wherein the means (g) comprises: means for computing the business parameters for the business solutions over a pre-determined study period (D1, Volume 2: page 6, paragraph 5; page 7, paragraph 3; page 75, paragraph 7; page 76, paragraph 2). It would have been obvious to compute business parameters over a period of time to allow for comparison in order to enable a comprehensive business decision.

Ngi further teaches means for determining one or more of the following business parameters: capital expenditure (CAPEX), wherein the CAPEX comprises a network architecture cost, taxes, interests, and depreciation and amortization (D/A) expenses; operational expenditure (OPEX), wherein the OPEX comprises a management processes cost, a leasing cost, and sales, general and administration (SG&A); revenue; capacity; return on investment (ROI); earnings before interest, taxes, and depreciation depreciation and amortization (EBITDA); earnings before

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interest and taxes (EBIT); the CAPEX as percentage of the revenue; the OPEX as percentage of the revenue; the D/A as percentage of the revenue; the SG&A as percentage of the revenue; and total expenditure as percentage of the revenue, wherein the total expenditure comprises the CAPEX and the OPEX ([0119], Table 2).

Regarding Claims 5, 23, and 35, Ngi further teaches wherein the means (b) comprises means for engineering the network architecture for the business solution, wherein the network architecture having one or more of the following technology: time division multiplexing (TDM), asynchronous transfer mode (ATM), frame relay (FR), Internet protocol (IP), virtual private network (VPN), multi protocol label switching (MPLS), and optical Ethernet including fiber, synchronous optical network (SONET), resilience packet ring (RPR), and dense wavelength division multiplexing (DWDM) ([0055]).

Regarding Claim 6, EURESCOM further discloses wherein the means (d) comprises means for engineering the network management processes and the service and customer management processes for managing the network architecture for the business solution (D2, Volume 1: page 11, Table 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi's invention to include the management processes of both the network and the servicing customers in order to enable a comprehensive business decision.

Regarding Claims 7, 28, and 38, Ngi further teaches wherein the means (h) comprises means for displaying the business parameters in tables and graphical charts for the business solutions over the pre-determined study period ([0114], [0123]-[0124]).

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Regarding Claims 8, 24, and 34, EURESCOM further discloses wherein the means (c) comprises means for determining a network architecture cost and a leasing cost for the network architecture for the business solution (D1, Volume 2: page 5, paragraph 1 and D2, Volume 2: pages 30-31, Section 3.2.2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi's invention to include all costs (leasing costs as well) in order to enable a comprehensive business decision.

Regarding Claim 9, EURESCOM further discloses wherein the means (f) comprises means for validating and calibrating the data and options; the network architecture cost; and the leasing cost for said network architecture for the business solution (D1, Volume 2: page 28, paragraph 1; page 5, paragraph 1; D2, Volume 2: pages 30-31, Section 3.2.2; pages 34-35, Section 3.4). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to validate and calibrate data (options and costs) in order to enable an accurate and comprehensive business decision.

Regarding Claim 10, EURESCOM further discloses wherein the means (b) further comprising for means for determining an owned network elements (NEs) count (D1, Volume 2: page 14, paragraph 3); a leased NEs count (D1, Volume 2: page 86, paragraph 7); an owned customer premise equipment (CPE) count (D1, Volume 2: page 14, paragraph 3); a leased CPE count (D1, Volume 2: page 86, paragraph 7); an owned links count (D1, Volume 2: page 57, paragraphs 8-9; page 60, paragraph 3); a leased links count (D2, Volume 2: page 67, Sections 6.3.1.1 and 6.3.1.2); and a leased ports count for said network architecture (D2, Volume 2: page 64, paragraph 6); and wherein said network architecture having NEs, CPE, and links from the same or different equipment suppliers (suppliers (D1, Volume 2: page 49, paragraph 5;

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page 50, paragraph 5; page 86, paragraph 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to have the counts of items to allow for calculation of costs in order to enable a comprehensive business decision.

Regarding Claim 15, EURESCOM further discloses wherein the means (e) comprises means for determining a management processes cost comprising a network management processes cost and a service and customer management processes cost for the business solution (D2, Volume 1: page 12, Table 2; D2, Volume 2: page 68, Section 6.3.1.2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to consider both a network management processes cost and a service and customer management processes cost in order to enable a comprehensive business decision.

Regarding Claim 16, EURESCOM further discloses wherein the means for engineering the network management processes comprises a means for one or more of the following processes: inside plant maintenance; outside plant maintenance; network engineering; network provisioning; installation; testing; and repairs (D2, Volume 1: page 11, Table 1; page 12, Table 12). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to include network provisioning as a management process in order to enable a comprehensive business decision.

Regarding Claim 17, EURESCOM further discloses further comprising means for determining the network management processes cost for said network management processes for one or more of the following: a manual operations mode; a mechanized operations mode; and a

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manual and mechanized operations mode (D2, Volume 1: page 12, Table 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to consider the cost per NE for network maintenance to enable a comprehensive business decision.

Regarding Claim 18, EURESCOM further discloses wherein the means for engineering the service and customer management processes comprises a means for engineering one or more of the following processes: customer relationship management (CRM); work order management (WOM); network inventory management (NIM); service activation and provisioning (SAP); fault management (FM); performance management (PM); accounting and billing; and security management (D2, Volume 1: page 11, Table 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to include customer relationship as a management process in order to enable a comprehensive business decision.

Regarding Claim 19, EURESCOM further discloses further comprising means for determining the service and customer management processes cost for said service and customer management processes for one or more of the following: a manual operations mode; a mechanized operations mode; and a manual and mechanized operations mode (D2, Volume 2: page 68, Section 6.3.1.2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to consider the cost per link for a network to enable a comprehensive business decision.

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Regarding Claims 25 and 36, wherein the means (iv) comprises: means for causing the computer to engineer one or more of the following network management processes: inside plant maintenance, outside plant maintenance, network engineering, network provisioning, installation, testing, and repairs for managing the network architecture for the business solution (see Claim 16); and means for causing the computer to engineer one or more of the following service and customer management processes: customer relationship management (CRM), work order management (WOM), network inventory management (NIM), service activation and provisioning (SAP), fault management (FM), performance management (PM), accounting and billing, and security management for managing the network architecture for the business solution (see Claim 18).

Regarding Claims 26 and 37, wherein the means (v) comprises: means for causing the computer to compute a network management processes cost for the network management processes for one or more of the following: a manual operations mode, a mechanized operations mode, and a manual and mechanized operations mode (see Claim 17); means for causing the computer to compute a service and customer management processes cost for the service and customer management processes for one or more of the following: a manual operations mode, a mechanized operations mode, and a manual and mechanized operations mode (see Claim 19); and means for causing the computer to compute a management processes cost comprising the network management processes cost and the service and customer management processes cost (see Claims 17 and 19).

Regarding Claim 29, EURESCOM further discloses wherein the computer-readable medium is a self-contained Microsoft EXCEL-based decision support software tool comprises a plurality of

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EXCEL workbooks linked together (D1, Volume 2: page 10, paragraph 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to use EXCEL for creating charts and tables as EXCEL capabilities are highly suited for creating comparison aides to enable a comprehensive business decision.

Regarding Claim 30, EURESCOM further discloses wherein the computer-readable medium is a self-contained software tool comprises a number of sub-programs linked together and the sub-programs are written in one or more computer languages (D1, Volume 2: page 10, paragraph 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi with the teachings of EURESCOM to use a computer language with module or sub-program capabilities because they can easily be linked together in order to manage a large and multi-faceted project.

Regarding Claim 33, wherein the step (n) comprises: inputting traffic data, customer data, and labour and financial data (see Claim 2); inputting technology options comprising one or more of the following technology: time division multiplexing (TDM), asynchronous transfer mode (ATM), frame relay (FR), Internet protocol (IP), virtual private network (VPN), multi protocol label switching (MPLS), and optical Ethernet including fiber, synchronous optical network (SONET), resilience packet ring (RPR), and dense wavelength division multiplexing (DWDM) for a network architecture for a business solution (see Claim 3); and inputting management processes options for the network management processes and the service and customer management processes for managing the network architecture for the business solution (see Claim 3).

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11. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ngi in view of EURESCOM and further in view of Arbel et al., U.S. Patent Application Publication Number 2004/0008673 A1 (hereinafter referred to as Arbel).

Regarding Claim 11, EURESCOM further discloses wherein the means (c) further comprising means for determining a price per network element (NE) (D1, Volume 2: page 64, paragraphs 2-4),...and a power consumption per NE cost (D2, Volume 2: page 34, Table 7; page 35, Table 9); a price per CPE (D1, Volume 2: page 64, paragraphs 2-4),...and a power consumption per CPE cost (D2, Volume 2: page 34, Table 7; page 35, Table 9); and a price per link and a link transmission rate (D1, Volume 2: page 57, paragraphs 8-9; page 60, paragraph 3 and D2, Volume 2: Page 68, Section 6.3.1.2).

Ngi or EURESCOM do not explicitly disclose costs relating to footprints. However, Arbel discloses a footprint per NE cost ([0025], [0074])...a footprint per CPE cost ([0025], [0074]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi and EURESCOM to include all costs (those relating to footprints as well) in order to enable a comprehensive business decision.

Regarding Claim 12, EURESCOM and Arbel further disclose wherein the means for determining the network architecture cost comprises a means for computing a total owned NEs cost; a total owned CPE cost; and a total owned links cost for said network architecture for the business solution (D1, Volume 2: page 47, paragraph 5; page 65, paragraph 1) and wherein the means for determining the leasing cost comprises a means for computing a total footprints cost (Arbel, [0025], [0074]) and a total power consumptions cost for said owned NEs and CPE (D2, Volume

2: page 34, Table 7; page 35, Table 9). It would have been obvious to one of ordinary skill in the art at the time of the invention to calculate total costs (of footprints as well) in order to enable a comprehensive business decision.

Regarding Claim 13, EURESCOM further discloses wherein the means (c) further comprising means for determining a leased per NE cost (D1, Volume 2: page 86, paragraph 7),...and a power consumption per NE cost (D2, Volume 2: page 34, Table 7; page 35, Table 9); a leased per CPE cost (D1, Volume 2: page 86, paragraph 7),...and a power consumption per CPE cost (D2, Volume 2: page 34, Table 7; page 35, Table 9); a leased per link cost; a leased link per unit length cost, a unit length per link count (D2, Volume 2: page 67, Sections 6.3.1.1 and 6.3.1.2), and a link transmission rate (D1, Volume 2: page 57, paragraphs 8-9; page 60, paragraph 3 and D2, Volume 2: Page 68, Section 6.3.1.2); and a leased per port cost (D2, Volume 2: page 64, paragraph 6). It would have been obvious to include leasing costs in order to enable a comprehensive business decision.

Ngi or EURESCOM do not explicitly disclose costs relating to footprints. However, Arbel discloses a footprint per NE cost ([0025], [0074])...a footprint per CPE cost ([0025], [0074]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ngi and EURESCOM to include all costs (those relating to footprints as well) in order to enable a comprehensive business decision.

Regarding Claim 14, EURESCOM and Arbel further disclose wherein the means for determining the leasing cost comprises a means for computing a total leased NEs cost; a total leased CPE cost; a total footprints cost and a total power consumptions cost for said leased NEs and CPE; a

total leased links cost; a total leased links per unit length cost; and a total leased ports cost for said network architecture for the business solution (see Claim 13). It would have been obvious to one of ordinary skill in the art at the time of the invention to calculate total leasing costs in order to enable a comprehensive business decision.

Response to Arguments

12. Applicant's arguments filed on April 29, 2008 have been fully considered but they are not persuasive.

13. Regarding Claims 1, 2, 20, 31, applicant has amended with limitations previously rejected on obviousness, therefore, the amended claim language does not provide limitations that overcome the rejections of record. The examiner asserts that Ngi teaches the original limitations.

Regarding Claim 5, the original limitations stated: "one or more of the following technology..." The examiner asserts that Ngi teaches one (SONET).

Regarding Claim 28, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Ngi teaches the capabilities "to tabulate and graphically chart the business parameters..."

Regarding Claim 32, the original limitations only stated CAPEX and OPEX. Ngi teaches calculating CAPEX and OPEX.

Regarding Claims 35 and 36, applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims

present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

14. Regarding Claims 3, 4, 6-10, 15-19, 21-27, 29, 30, 34, 37, and 38, in response to applicant's argument that EURESCOM Project P901- PF Extended investment analysis of telecommunication operator strategies is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, EURESCOM Project P901-PF addresses the determination and analysis of business parameters for telecommunications networks as does the present application. Therefore, the examiner asserts that EURESCOM Project P901-PF is analogous to the present application.

15. Regarding Claims 11-14, in response to applicant's argument that Arbel et al., U.S. Patent Application Number 2004/0008673 A1 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Arbel addresses telecommunications architecture as does the present application. Therefore, the examiner asserts that Arbel is analogous to the present application.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBRA ANTONIENKO whose telephone number is (571)270-3601. The examiner can normally be reached on Monday through Thursday, 7:30 AM to 4:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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